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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED**

JAN 06 2005

**OFFICE OF PETITIONS**

Applicant(s): Robert S. Alvin

Assignee: Innovation Management Sciences

Title: Multi-level Fraud Check with dynamic Feedback for Internet  
Commerce

Serial No.: 09/343,550

Filed: 06/30/99

Examiner: Cuong H. Nguyen

Group Art Unit: 3625

Attorney Docket No.: 269.1003.01

Los Altos, California

Date: \_\_\_\_\_

**DECLARATION OF FACTS IN SUPPORT OF PETITION TO  
REVIVE**

This declaration is made as to the facts that are relied upon to establish the diligent effort and determination made, that as to the patent application at issue, the entire delay in filing the required reply from the due date for the reply until the filing of the accompanying petition included herewith pursuant to CFR 1.137(b) was unintentional.

This declaration is being made by the person having first-hand knowledge of the facts recited herein.

1. My name is Jeffrey Scott Petro.

2. I am an Attorney employed at the Swernofsky Law Group PC, 4970 El Camino Real, Suite 210, Los Altos, CA 94022.
3. I was asked to help with the above referenced case in November 2005, the issue being to determine whether the facts would support reviving patent application (09/343,550) under CFR 1.137(b).
4. I identified the following sources that I believed could provide me with relevant information:

Barry L. Solomon	Bankruptcy Trustee
Cecelia Rosenauer	Attorney for Bankruptcy Trustee
Joseph Popolo	IP Auctions employee
Wilfred Lam	Partner, Innovation Management Sciences

5. I called the identified sources on December 15, 2005 and December 20, 2005. Some were not available on the first day I called. From my conversations with these sources, I put together the following timeline of the most important events that are explained further herein:

June 1999	Patent application Filed
May 2000	Insiderstreet.com purchases Hardwarestreet.com
January 2001	Hardwarestreet.com placed in Chapter 7 bankruptcy
March 2003	Innovation Management Sciences (hereinafter "IM Sciences") purchases the application
June 2005	Application assigned to IM Sciences by Bankruptcy Trustee
July 2005	IM Sciences orders application file
August 2005	IM Sciences contacts counsel that originally filed the application
October 2005	IM Sciences contacts counsel that originally filed the application
November 2005	IM Sciences contacts Swernofsky Law Group

6. I was given the following general background information prior to undertaking this case and have added additional information obtained from the individuals I contacted. Hardwarestreet.com had hired Washington D.C. counsel to prosecute an application entitled "Multi-level Fraud Check with Dynamic Feedback for Internet Commerce" serial number 09/343,550. The application was filed in June of 1999. In May of 2000 a company named Insiderstreet.com purchased Hardwarestreet.com. In January of 2001 Hardwarestreet.com was placed into Chapter 7 bankruptcy. The bankruptcy trustee was Mr. Barry L. Solomon. A company named IP Auctions placed the intellectual property of Hardwarestreet.com up for sale on a web site. IM Sciences became aware of one of the applications for sale and placed the winning bid in March 2003. The assignment of the application to IM Sciences by the bankruptcy trustee occurred in June 2005. IM Sciences ordered a copy of the file for the application and learned the identity of the attorneys of record for the application. IM Sciences contacted the attorneys. The attorneys said they would look into the matter and get back to IM Sciences. Following no response from the attorneys, IM Sciences contacted the attorneys again circa October/November 2005. The attorneys were again unresponsive to the inquiry by IM Sciences, and IM Sciences called Swernofsky Law Group PC.
7. In November and December of 2005, John Fleming, a Law Clerk at Swernofsky Law Group, performed initial research pertaining to the case.
8. On December 12, 2005, I called Barry L. Solomon. Mr. Solomon told me that he did not know that any action was pending on the application, and that he had no contact with the attorneys of record for the application. He also stated that he knows nothing about patent law.
9. On December 12, 2005, I called Cecelia Rosenauer who is Mr. Solomon's attorney. She was unavailable at that time, but I was able to talk to her on December 15, 2005. She stated that to the best of her recollection, she never had any contact with the attorneys of record for the application. She also said that she was unaware that any response was due, and that she has no knowledge of patent law as her area of expertise is bankruptcy law. Ms. Rosenauer agreed to send me an electronic copy of

the United States Bankruptcy Court Form B9B (Notice of Chapter 7 Bankruptcy Case) relating to Hardwarestreet.com.

10. On December 12, 2005, I called Mr. Wilfred Lam who is an officer of IM Sciences. He stated that IM Sciences became aware of the application and made a bid. It took some time before the bankruptcy trustee was able to transfer the application to them. Mr. Lam said that once the application was assigned to IM Sciences they ordered a copy of the file which made them aware of the attorneys of record. They contacted the attorneys of record for the application in July 2005 and were told by the attorneys that they would research the matter and get back to them. IM Sciences again contacted the attorneys in October – they left a message inquiring as to the status of the research but received no reply. In November 2005, IM Sciences contacted Swernofsky Law Group.

11. On December 12 2005, I called IP Auctions to speak with Mr. Joe Popolo. Mr. Popolo was unavailable on that date, but I did speak with him on December 20, 2005. Mr. Popolo told me that the patent application was placed on IP Auction's web site, that IM Sciences had the winning bid, and that the sale was finalized March 11, 2003.

12. The people that I spoke to relied primarily on their recollection of the facts and limited documentation.

I am:

Jeffrey Petro

Date: 12-29-05